
ESTABLISHING A PROPERTY TAX FUND FOR THE HOULTON BAND OF
MALISEET INDIANS IN FURTHERANCE OF THE MAINE INDIAN CLAIMS
SETTLEMENT ACT OF 1980, AND FOR OTHER PURPOSES

SEPTEMBER 23 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. ANDREWS, from the Select Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 2750]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2750) to establish a property tax fund for the Houlton Band of Maliseet Indians in furtherance of the Maine Indian Claims Settlement Act of 1980, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 2750 was introduced by Senator Cohen, for himself and Senator Mitchell, on August 13, 1986. The bill represents an agreement by the Houlton Band of Maliseet Indians and the State of Maine for the creation of a tax fund for payment of taxes or in lieu taxes which may become due the State of Maine or any of its political subdivisions. The bill also provides for utilization of funds previously appropriated to acquire a land base for this currently landless tribe.

BACKGROUND

The Houlton Band of Maliseet Indians received Federal recognition in the legislation that resolved the claims of the Indian tribes against the State of Maine. (Act of October 10, 1980; 94 Stat. 1785). Potential claims of the Maliseet Indians were among the claims resolved in that legislation. However, it was not possible at the time of that legislation to make provision for a land base for the Houlton Band. Agreement was reached on the establishment of a land acquisition fund in the amount of \$900,000.00, but, under the provisions of Section 5(d)(4) of the Act, provision was made for expendi-

ture of these funds only after the Houlton Band of Maliseet Indians and the State of Maine should reach agreement on specific subjects relating to the land holding and assurance of the capacity of the tribe to pay taxes or in lieu taxes that might become due.

Interest on the Houlton Band land acquisition fund has resulted in a current balance of the fund in the amount of approximately \$1.8 million. S. 2750 directs that \$200,000.00 of this sum be transferred by the Secretary of the Interior from the land acquisition to a separate fund to be known as the Houlton Band Tax Fund which will be administered by the Secretary of the Interior in the same manner and to the same extent as other similar funds.

The bill is supported by both the Houlton Band of Maliseet Indians and by the State of Maine. There is no expense to the United States.

The Committee expects that the Band will proceed with reasonable promptness to adopt an appropriate instrument in writing to govern the affairs of the Band which will comply with the requirements of Section 7 of the Maine Settlement Act, and that all interested tribal members shall be consulted and have full input in developing this document, as stated in the letter of August 7, 1986, from the Chairman of the Band to Senators Cohen and Mitchell, which follows:

HOULTON BAND OF MALISEET INDIANS,
Houlton, ME, August 7, 1986.

Senator WILLIAM S. COHEN,
Senate Office Building,
Washington, DC.

Senator GEORGE MITCHELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS COHEN AND MITCHELL: Section 7 of the Maine Settlement Act, 25 U.S.C. Section 1726, gives the Houlton Band of Maliseet Indians the authority to "adopt an appropriate instrument in writing to govern the affairs of the band . . . when . . . acting in a governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this subchapter and the Maine Implementing Act."

The Band plans to proceed with reasonable promptness to adopt an instrument as described in Section 1726. This instrument will conform to the laws cited in Section 1726 and will be the result of thorough consultation with and input from any and all interested tribal members.

Sincerely,

CLAIR A. SABATTIS, *Tribal Chairman.*

LEGISLATIVE HISTORY

S. 2750 was introduced by Senator Cohen, for himself and Senator Mitchell, on August 13, 1986, and was referred to the Select Committee on Indian Affairs for consideration. There is no companion bill in the House of Representatives. S. 2750 was considered by the Select Committee on Indian Affairs at an open business session on September 15, 1986, and was ordered reported without amendment.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session of September 15, 1986, by a unanimous vote of a quorum present, ordered S. 2750 reported without amendment with a recommendation that the bill be passed as reported.

COMMITTEE AMENDMENTS

There are no amendments to the bill.

SECTION-BY-SECTION ANALYSIS

Section 1. This section sets forth the short title of the Act.

Section 2. This section sets forth definitions of terms used in the Act.

Section 3. This section establishes the Houlton Band Tax Fund to be established in the United States Treasury and to be administered by the Secretary of the Interior in the same manner as other, similar funds are administered. It is the intent of this section that the Secretary of the Interior shall transfer \$200,000.00 from the Houlton Band land acquisition fund into this Tax Fund promptly upon enactment of this Act. Subsection (2) requires the Secretary to publish notice of this transfer in the Federal Register when the funds are so transferred.

Subsection (d) of Section 3, authorizes the Secretary of the Interior to pay funds out of the Houlton Band Tax Fund for payment of valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon only after such claims have been certified by the Commissioner of Finance and Administration of the State of Maine.

Subsection (e) provides that if the Houlton Band of Maliseet Indians is determined to be liable for payment of any taxes and there are insufficient funds in the Houlton Band Tax Fund, the deficiency shall be paid by the Houlton Band of Maliseet Indians only from income-producing property owned by the Band which is not held in trust for such Band. It is the intent of the Committee that nothing in this section or in this Act should be construed as establishing liability on the part of the United States or the Secretary of the Interior for payment of such taxes in the event of insufficiency of funds in the Houlton Band Tax Fund.

Section 4. This section authorizes and directs the Secretary of the Interior to expend the funds remaining in the Houlton Band land acquisition fund after transfer of the \$200,000.00 to the Tax Fund, only for purposes of acquiring land or natural resources, and such lands or natural resources acquired in the State of Maine shall be held in trust for the Band by the Secretary of the Interior. Provision is also made for condemnation of lands by the State of Maine that are consistent with the provisions of the 1980 Act, and the consent of the United States is given to the State of Maine to amend the Maine Implementing Act for purposes of embodying the agreement which may be reached by the Band and the State regarding condemnation as provided in this subsection.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 2750 as provided by the Congressional Budget Office is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 16, 1986.

Hon. MARK ANDREWS,
*Chairman, Select Committee on Indian Affairs, U.S. Senate, Hart
Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2750, the Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, as ordered reported by the Senate Select Committee on Indian Affairs, September 15, 1986.

We estimate that enactment of this legislation would result in no cost to the federal government or to state or local governments. The bill would create a property tax fund within the United States Treasury and transfer into that fund up to \$200,000 of monies currently being held in trust for the Houlton Band of Maliseet Indians. The tax fund would be used to meet tax obligations of the Band. These transactions would have no net impact on the federal budget over time, because receipts and expenditures would net to zero. The net impact in any given year would be small.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. It is the opinion of the Committee that S. 2750 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee received the following communications from the Administration.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 17, 1986.

Hon. MARK ANDREWS,
*Chairman, Select Committee on Indian Affairs, U.S. Senate, Wash-
ington, DC.*

DEAR MR. CHAIRMAN: This is to provide our views on S. 2750, the "Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986."

We recommend enactment of S. 2750 with the amendment discussed below to address our concerns on ultimate liability for the State obligations in question.

As we understand S. 2750, it would establish a special account in the United States Treasury to be known as the Houlton Band Tax Fund. This account would be funded from income accrued to date on a \$900,000 land acquisition fund established for the Houlton Band pursuant to section 5(c) and (d) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724). This land acquisition fund currently has a balance of approximately \$1.8 million. An initial \$200,000 would be transferred under S. 2750 from this land acquisition fund to the Houlton Band Tax Fund. The timing as well as the trigger for subsequent transfers is not stated in the bill. No additional transfers could be made from the land acquisition fund to the tax fund where such transfers would reduce the amount of such fund below \$900,000.

Under S. 2750, the Houlton Band Tax Fund would be used to pay taxes, fees and payments in lieu of taxes, together with interest and penalties thereon, certified by the State of Maine as valid claims under the Maine Implementing Act, as amended. The Maine Implementing Act is State legislation to implement certain provisions of the 1980 Maine Indian Claims Settlement Act.

S. 2750 also would provide that if there are insufficient funds in the Houlton Band Tax Fund to pay any otherwise owed amount, the Band could be required to meet the required deficiency only from income-producing property owned by the Band which is not held in trust.

In other provisions, S. 2750 would permit principal and income from the land acquisition fund established under the 1980 Maine Indian Claims Settlement Act to be used for the acquisition of land or natural resources for the Band. All land or natural resources acquired with funds appropriated under the 1980 act would be taken into trust by the United States for the benefit of the Houlton Band. S. 2750 also prescribes certain restrictions on alienation of any land taken into trust.

S. 2750 represents the results of negotiations between the State and the Houlton Band required by Section 5(d)(4) of the 1980 Maine Indian Claims Settlement Act. It involves no additional expenditure of Federal funds. We support enactment of S. 2750 provided that our outstanding concerns with liability under the bill can be resolved. The bill indicates (section 3(a)) that if monies in the tax fund are insufficient to pay any certified State obligation, income generated by income-producing property owned by the Band (which is not held in trust) could be used to make up the difference. However, the bill is silent as to which party, if any, would be responsible in the event income from tribal property is insufficient to pay these State obligations. To avoid any misunderstanding that, as trustee, the Secretary might be construed as liable for the amount of any deficiency, we recommend that section 3(e)(2) of the bill be amended to provide that in the event of any deficiency after application of income derived from income-producing non-trust property held by the tribe, such deficiency shall not be considered either a direct or indirect obligation of the United States. We also suggest a

technical amendment to section 3(a) to clarify that the \$200,000 to be deposited in the tax fund is "by transfer."

Should S. 2750 be enacted, the Houlton Band Tax Fund would be administered by the Secretary of the Interior in the same manner and to the same extent as other similar funds. As is the case with similar funds, this fund would also be maintained within the Department of the Treasury.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROSS O. SWIMMER,
Assistant Secretary.

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